

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

DAVID STEBBINS,)
Plaintiff,)
v.) Case No. 10-3305-CV-S-RED
RELIABLE HEAT & AIR, LLC, et al.,)
And)
RANDAL RICHARDSON, et al.)
Defendants.)

MOTION FOR PARTIAL SUMMARY JUDGMENT

Comes now Plaintiff David Stebbins, who respectfully moves that the Court grant summary judgment on the following issues of material fact in my lawsuit.

1. I am disabled, in accordance with the definition of “disability” set forth in the Americans with Disabilities Act, as amended in 2008. This was admitted in the request for admissions.
2. Randal Richardson terminated my employment with Reliable Heat & Air, LLC, on June 1, 2009, for a reason that would not have been present, but for my disability. This was also admitted in the request for admissions.

At this point, the remaining questions of material fact are the following:

1. Did the defendants provide reasonable accommodations?
2. Was the plaintiff harassed, during his employment tenure, for no reason that would not have been present, but for his disability?
3. Did the plaintiff literally contemplate suicide?
4. If so, was the plaintiff's contemplation of suicide directly tied to his unemployment,

which was, in turn, directly tied to the defendants' wrongful termination of the plaintiff?

A brief in support of this motion is attached, and is hereby incorporated by reference.

Wherefore, I respectfully pray that the court grant the above-stated motion, and enter it as a final partial judgment.



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BRIEF IN SUPPORT OF MOTION

Comes now Plaintiff David Stebbins, who submits the following brief in support of a motion for summary judgment.

I hereby assert the following:

1. On December 16, 2010, the defendants' attorney, Gary W. Allman, responded to the request for admissions that I sent to him on November 19, 2010. See Document #21.
2. The Defendants claimed that I was terminated on June 1, 2009 for "rudeness, abrasiveness, and arrogance." See Fact #7 in Document #21.
3. The Defendants admitted that I explained my disability to them. See Fact #11 in Document #21. I told him about it on the first day, and *reminded* him of my disability on the third day of my employment; apparently, he (Richardson) does not remember me telling him about it on the first day of my employment, but it is irrelevant, all the same; the bottom line is, I told him about it.
4. The Defendants admitted that the disability I spoke of made me speak harshly to people. See Fact #11 in Document #21.

5. Facts #3 and #4 combine to establish that the reason I was terminated would not have been present, but for my disability.
6. The Defendants admitted that they did not ask me for medical records to prove my disability. See Fact #12 in Document #21. By proxy, that means the defendants took my word for it, that I have Asperger Syndrome.
7. The ADA Amendments Act of 2008 requires the definition of “disability” to be broadly defined. See 42 U.S.C. § 12102(4)(A).
8. There are three definitions of “disability,” in accordance with ADA law. See 42 U.S.C. § 12102 . They are:
 - A) A physical or mental impairment that substantially limits one or more major life activities, or
 - B) A record of such an impairment, or
 - C) Being regarded as having such an impairment.
9. I only have to meet one of the above three definitions in order to be “disabled” for the purpose of having standing to pursue a claim of disability discrimination. Meeting more than one of these three definitions would serve as an *ad abundantiam* in my case, but it is not a requirement.
10. The defendants need merely to *perceive* me as disabled, at the time the wrongful termination occurred, for me to meet the third definition of disability. See 42 U.S.C. § 12102(3)(A).
11. Because I explained my disability to the defendants, and they accepted my word, without any documentation, that means that I was *perceived* as being disabled.
12. As a direct result, I have established that I am disabled, without the need to hire an expert

witness.

13. Many court cases may say the opposite of the assertion made in Paragraph #12, but unambiguous statute trumps unambiguous case law, and the ADA Amendments Act of 2008 not only is unambiguous statute that states that a definition of "disability" must be determined as broadly as possible, but it was passed specifically with the purpose of overriding these precedent-setting cases.

14. As it stands, 42 U.S.C. § 12102 explicitly and clearly states that I am disabled, so long as I am *regarded as having* a disability, and I have established exactly that.

Wherefore, I respectfully pray that you grant the partial summary judgment spoken of in the attached motion.



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CERTIFICATION OF SERVICE

The Plaintiff hereby certifies, under penalty of perjury, that a true and correct copy of

Motion for partial summary judgment

and

Brief in support of motion

Was served upon

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by transmitting a copy to them by email transmission on the 18th day of December, 2010.



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